

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FLO & EDDIE, INC., individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

SIRIUS XM RADIO INC., and DOES 1  
through 10,

Defendants.

CIVIL ACTION No.  
13-CV-5784 (CM) (HBP)

**NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE, that upon the Memorandum of Law in Support of Sirius XM Radio Inc. (“Sirius XM”)’s Motion for Summary Judgment, Sirius XM’s Statement of Uncontested Material Facts Pursuant to Local Rule 56.1 in Support of its Motion for Summary Judgment, the accompanying Declarations of John R. Gerba, David J. Frear, and Terrence R. Smith, and the exhibits annexed thereto, Defendant Sirius XM hereby moves this Court, before the Honorable Colleen McMahon, United States District Judge, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 14C, New York, New York, for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment in Sirius XM’s favor and to dismiss with prejudice Plaintiff’s First Amended Class Action Complaint.

PLEASE TAKE FURTHER NOTICE that pursuant to this Court’s Memorandum Endorsement dated May 15, 2014, Plaintiff’s opposition is due by July 11, 2014, and Sirius XM’s reply is due by August 13, 2014.

Dated: New York, New York  
May 30, 2014

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